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10/574,225	12/13/2006	Hiroyuki Menjo	28888US8PCT	2231
22850	7590	04/29/2009	EXAMINER	
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.			CHOO, MUNSOON	
1940 DUKE STREET			ART UNIT	PAPER NUMBER
ALEXANDRIA, VA 22314			2617	
NOTIFICATION DATE		DELIVERY MODE		
04/29/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/574,225	<b>Applicant(s)</b> MENJO ET AL.
	<b>Examiner</b> MUNSOON CHOO	<b>Art Unit</b> 2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 16 March 2009.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-10 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 31 March 2006 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-166/08)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments, with regards to claims 1 filed March 16, 2009 have been fully considered but they are not persuasive.
2. **On page 7 of the Applicant's Response, applicants argue that** Duvall does not disclose:

Acquires location information "over the control channel from the location information calculating server"

3. **The Examiner respectfully disagrees with Applicant's arguments.**

(Duvall, Figure 2: GPS/GPS-T in the vehicle (or is integrated as p1 in Fig. 2) receives signal from Satellite. Note that Satellite calculates location information just as the location information calculating server)

(Duvall, Column 3 Line 13-15: GPS-T is a control channel transponder-GPS)

4. **On page 8 of the Applicant's Response, applicants argue that** Duvall does not disclose:

Transmits over the control channel, location information acquired by the location acquiring means from the location information calculating server.

5. **The Examiner respectfully disagrees with Applicant's arguments.**

(Duvall, Figure 2: GPS/GPS-T in the vehicle (or is integrated as p1 in Fig. 2) receives signal from Satellite.)

6. **Therefore, in view of the above reasons, Examiner maintains rejections.**

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claim 1, 6, and 8-10 are rejected under 35 U.S.C. 102(e) as anticipated by Duvall et al. (US 6,876,858 hereinafter "Duvall").

Re claim 1, Duvall discloses a portable communication terminal comprising:  
data transmitting means for transmitting user data to a communication partner equipment, using a user channel for transmission of user data;

(Figure 2, reference 1-2, column 1 line 60 to column 2 line 15. The user calls the control center (communication partner equipment) over the cellular voice path (user channel), and the control center verify the user's id(user data))

location requesting means for transmitting request information to request calculation of location information about the portable communication terminal, to a location information calculating server for calculating the location information (Figure 2: GPS/GPS-T in the vehicle transmits signal to Satellite (claimed calculating server)), in accordance with the transmission of the user data, using a control channel for transmission of control data;

(Note: column 3 line 38, figure 2 ref p1: cell phone p1 is equipped (incorporated) with GPS-T module. Therefore, P1 is the combination of a cell phone and a GPS-transponder (Figure 2, GPS/GPS-T in the back of the vehicle). Column 3 Line 13-15: GPS-T is a control channel transponder-GPS)

location acquiring means for acquiring the location information **over the control channel** from the location information calculating server, the location information having been calculated based on the request information in the location information calculating server; and

(Figure 2: GPS/GPS-T in the vehicle (or is integrated as p1 in Fig. 2) receives signal from Satellite)

location transmitting means for transmitting, over the control channel, the location information acquired by the location acquiring means from the location information calculating server to the communication partner equipment.

**(Figure 2: GPS/GPS-T transmits signal (information) to the Call Center “C” via the control channel)**

Re claim 6, this method claim corresponds to the apparatus claim 1. Therefore, the analysis of rejections has already been done.

Re claim 8, Duvall discloses the portable communication terminal of claim 1, wherein the locating acquiring means acquires the location information from the location information calculating server over the control channel in parallel with the data transmitting means transmitting the user data to the communication partner over the user channel, and

**(Duvall, figure 2: Note that cell phone P1 is equipped with GPS/T, thereby provides a rational for combination. Then, the user in the car, can be calling the Call Center “C”, while the GPS/GPS-T inside the cell phone receives signal (information) from the satellite over the control channel)**

The locating transmitting means transmits the location information to the communication partner equipment over the control channel in parallel with the data transmitting means transmitting the user data to the communication partner over the user channel.

(Duvall, figure 2: With P1 is equipped with GPS/T, then the user in the car, can be calling the Call Center “C”, while the GPS/GPS-T inside the cell phone transmits location information to the Call Center via control channel)

Re claim 9-10, these apparatus claims correspond to the apparatus claims 1 and 8. Therefore, the analysis of rejections has already been done.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 2-5 and 7 rejected under 35 U.S.C. 103(a) as being unpatentable over Duvall as applied to claim 1 above, and further in view of Raith (US 6,856,807).

Re claim 2, Duvall discloses the portable communication terminal according to claim 1, but fails to disclose wherein the location requesting means continues to transmit the request information at predetermined intervals while the data transmitting means transmits the user data. Raith does.

(Raith: abstract, column 1 line 49 to 57. The mobile terminal (includes GPS receiver) updates (involves transmitting the request information) its position)

Motivation to combine may be gleaned from the prior art contemplated. Therefore, one skilled in the art would have found it obvious from the combined teachings of Duvall and Raith as a whole to produce the invention as claimed with a reasonable expectation of having the mobile terminal to update its position periodically.

Re claim 3, Duvall in combination with Raith disclose the portable communication terminal according to claim 2, further comprising movement detecting means for detecting a movement state of the location of the portable communication terminal, based on the location information acquired by the location acquiring means, wherein the location transmitting means transmits the location information in accordance with the detected movement state.

(Raith: figure 2 references 62, 64, 66 and 68. Column 1 line 65 to 67. Update frequency (involves transmitting the location information) is made less frequent because it has detected that the mobile terminal is moving slowly or is stationary)

Motivation to combine may be gleaned from the prior art contemplated. Therefore, one skilled in the art would have found it obvious from the combined teachings of Duvall and Raith as a whole to produce the invention as claimed with a reasonable expectation of changing the updating frequency according to the mobile terminal's moving condition, such as fast, slow or stationary.

Re claim 4, Duvall in combination with Raith disclose the portable communication terminal according to any one of claims 1 to 3, wherein the user data is motion picture

data taken as a picture of a subject and the data transmitting means transmits the taken motion picture data in real time.

(Raith: column 1 line 49 to 51. GPS receiver is disclosed inside of a mobile terminal.

Said GPS receiver can receive picture taken from the satellite)

Motivation to combine may be gleaned from the prior art contemplated. Therefore, one skilled in the art would have found it obvious from the combined teachings of Duvall and Raith as a whole to produce the invention as claimed with a reasonable expectation of the mobile terminal receiving pictures from the satellite by using its GPS receiver.

Re claim 5, Duvall in combination with Raith disclose the portable communication terminal according to any one of claims 1 to 3, wherein the request information contains a GPS signal transmitted from a GPS satellite.

(Raith: column 1 line 49 to 51. GPS receiver is disclosed inside of a mobile terminal.)

Motivation to combine may be gleaned from the prior art contemplated. Therefore, one skilled in the art would have found it obvious from the combined teachings of Duvall and Raith as a whole to produce the invention as claimed with a reasonable expectation of having a GPS receiver included inside of the mobile terminal disclosed in Duvall.

Re claim 7, Duvall in combination with Raith disclose the portable communication terminal according to claim 4, wherein the request information contains a GPS signal transmitted from a GPS satellite.

**(Raith: column 1 line 49 to 51. GPS receiver is disclosed inside of a mobile terminal.)**

Motivation to combine may be gleaned from the prior art contemplated. Therefore, one skilled in the art would have found it obvious from the combined teachings of Duvall and Raith as a whole to produce the invention as claimed with a reasonable expectation of having a GPS receiver included inside of the mobile terminal disclosed in Duvall.

***Conclusion***

1. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Contact***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MUNSOON CHOO whose telephone number is (571)270-7140. The examiner can normally be reached on Monday through Friday 7:30am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Corsaro can be reached on (571)272-7876. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2617

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Munsoon Choo/

Examiner, Art Unit 2617

/NICK CORSARO/

Supervisory Patent Examiner, Art Unit 2617